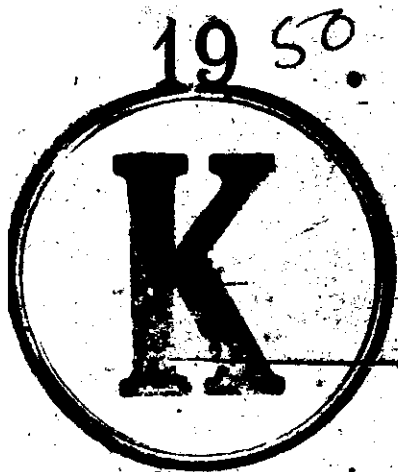




O/Registration/50
File No.

Legal Department

A BRANCH

Subject:—

Opinions under the
Indian Registration Act,
1908

16

O/Registration/50

File No.

Gen. 194 e.

293-A

C O N T E N T S.

Legal Department File No. C Registration./30

Sr. No.	Compilation No.	Subject.	Pages.
		Opinions under the Indian Registration Act, -908.	
1)	C.No. 2579/22-2-50.	Sec. 5. - under sec. 7 of the B'bay Land Revenue code, 1879. Notification issued by Lts Dt. regarding absorption of certain enclaves from the Hyderabad State and Saurashtra in the State of B'bay and the transfer of certain B'bay enclaves to the former question whether notification can be issued retrospectively.	1-4.
2)	C.No. 8339/19-6-50.	Question whether it is necessary to amend Sec. 69 of the Act so as to enable the Inspector General of Registra- tion to frame rules regulating the business of writing deeds to be prosecuted for registration under the Act or whether under sec. 69(1)(j) the Inspector General is competent to frame such rules.	5-6.
3)	C.No. 17106/4-12-50.	Re: Registration of amends made under the B'bay Agricultural Debtors Relief Act 1947, Question regarding amending the B'bay Registration Rules 1946.	7-8.

N.T.D.
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4c.

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N.T.D.
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Office of the P.L.A.

Indian Registration
Act, 1908, section 5;

Whether notification
in respect of Hyderabad
enclaves can be issued
with retrospective
effect.

Section 5 of the Indian Registration Act, 1908, empowers the State Government to form districts and sub-districts for the purpose of that Act and to prescribe and alter, the limits of such districts and sub-districts and the alteration in their limits are required to be notified in the Official Gazette. Sub-section (3) of that section provides that every such alteration shall take effect on such day after the date of the notification as is therein mentioned. It is in view of this provision that the P.D. has raised the question whether the notification altering the limits of the Barsi sub-district can be given retrospective effect. It will be seen from section 5 that the districts need not necessarily be co-extensive with the districts and sub-districts formed under the Land Revenue Code. But the difficulty in this case has arisen because the enclaves from Hyderabad have already formed part of this State from 25th January 1950. The second Schedule to G.N., P.D., No. 9257/45, dated the 30th July 1949, specifies inter alia the villages — of the Barsi sub-district and unless the villages — included in the Barsi taluka by G.N., P. & S.D., No. 2755/45-F-I, dated the 25th January 1950, (p. 37 ante) are included in that sub-district it will not be feasible to administer the Registration Act in that area. Under article 7 of the India and Hyderabad (Exchange of Enclaves) Order, 1950, all laws in force in an enclave immediately before the appointed day (i.e. 25th January 1950) cease to be in force in that enclave and all laws in force in Bombay extend to and be in force in that

enclave and all laws in force in Bombay extend to and be in force in that enclave. Thus the Indian Registration Act already extends to the enclaves already absorbed, but in the absence of any notification under section 5 of that Act read with section 6 there would be no Sub-Registrar in charge of that particular area. As the Hyderabad law regarding registration has already ceased to be in force in the areas of the absorbed enclaves there will be no alternative but to bring the Indian Registration Act, 1908, into force in these areas. ^{retrospective effect. Otherwise there will be no sub Registrar for these areas.} The difficulty arising in view of subsection (c) of section (5) of the Registration Act, 1908, can however be overcome by making an order under paragraph (1) of article 8 of the Indian and Hyderabad (Exchange of Enclaves) order, 1950. That paragraph gives power to the State Government to make order providing for removing the difficulties arising in connection with the absorption of the difficulties arising in connection with the absorption of the enclaves. Under paragraph 2 such order can be made so as to be retrospective to any date not earlier than 25th January 1950. It is would appear therefore that it would be competent for the State Government to amend G.O., P.D. No. 9257/45, dated the 30th July 1949, with effect from 25th January 1950 by issuing a notification under section 5 of the Indian Registration Act read with paragraphs (1) and (2) of article 8 of the Indian and Hyderabad (Exchange of Enclaves) Order, 1950. The Revenue Department should however consider

what other provisions it will be necessary to make in any such order so as to extend the period of limitation for presentation of documents for registration, etc. (vide section 23).

56/- 21/2

Remembrancer of Legal Affairs.

U.R. to R.D., No. 2579, dated the

22nd February 1950.

N.V.D.
6/7
4c.

Legal Department.

The Rules made by the Cripps Government are not covered by clause (j) of section 69(1) of the Act under which they purport to have been made. As already advised the Act will require amendment for the purpose.

Sd/- 16/6

Additional Secretary to Government.

U.F. to F.D. No. 8339, dated the

19th June 1950.

N.V.D.
6/7
4c.

Legal Department.

The forms prescribed under Government Resolution No. 801 dated 1-4-1950 have been prescribed under the Bombay Agricultural Debtors Relief Act and form part of the Bombay Agricultural Debtors Relief Rules, 1947. Form X prescribed in the Bombay Registration Rules is an annual return to be submitted by the Registrar giving information of all sorts of documents and instruments registered by Sub-Registrars ~~and~~ or the Registrar, ^{*} as the case may be, it appears to be necessary to include information about such awards in Form X. otherwise the annual return would be incomplete to that extent. The proposal made by the Inspector General of Registration may therefore, be accepted.

As the awards under the Bombay Agricultural Debtors Relief Act are registered by the Sub-Registrars or the Registrar,

sc/- 4/12

Additional Secretary to Government

U.P. to L.D.No. 17106, dated the

4th December 1950.

N.V.L.
6/7
dc.